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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/980,768	11/15/2001	Jack M. Birnbaum	GIC-575	7511

7590
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06/06/2005

EXAMINER

NGUYEN, VAN H

ART UNIT	PAPER NUMBER
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2194

DATE MAILED: 06/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/980,768

Applicant(s)

BIRNBAUM ET AL.

Examiner

VAN H. NGUYEN

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2004.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-89 is/are pending in the application.
4a) Of the above claim(s) 27-87 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-26, 88 and 89 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-26 and 88-89 are presented for examination.

Claim Objections

2. Claims 9 and 13 are objected to because of the following informalities: the abbreviations (DOCSIS and PID) used in these claims should be defined.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 11-26 and 88-89 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claim 1, the limitation "cable settop hardware" (lines 16-17) renders the claim indefinite. It is not clear if it is referred to "cable settop hardware" recited in line 9.

As to claim 89, the limitation "cable settop hardware" (lines 17-18) renders the claim indefinite. It is not clear if it is referred to "cable settop hardware" recited in lines 9-10.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

6. Claims 1, 2, 16, 88, and 89 are rejected under 35 U.S.C. 102(e) as being anticipated by **Balabanian** (U.S. 6,882,639).

7. As to claim 1, Balabanian teaches (see fig.1) the invention substantially including an interface to core system software in a user terminal, comprising:

a computer readable medium having computer program code (col.3, lines 49-58);
and means for executing the computer program code to provide at least one software interface (a software DMIF-application interface 18A; col.5, line 1 and fig.1) between middleware (middleware; fig.1) and the score system software and cable settop hardware (set-top box; col.5, lines 10-20 and fig.1);

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the middleware mediating between an application program (application 12A; fig. 1) and the core system software (see fig. 1); and the software interface enabling the application program to access a function of the terminal provided by the core system software via the middleware (col.6, lines 18-36); wherein the software interface enables compatibility between the core system software and cable settop hardware (col.5, lines 12-29); and different middleware (col.6, lines 54-65).

8. As to claim 2, Balabanian teaches acquiring a service (request service 201; fig. 2 and col.6, lines 18-26).

9. As to claim 16, Balabanian teaches the function of the terminal comprise, among other things, acquiring downstream data from a specified service source (generates a global unique session identifier... using the DS_DOWNSTREAMCHANNELADDRESSREQUEST() message; col.6, lines 26-46).

10. As to claim 88, Balabanian teaches the terminal comprises a television terminal (terminal 11A may be one of many home television sets; col.5, lines 24-28).

11. As to claim 89, it is directed to a method for presenting the system of claim 1, and is similarly rejected under the same rationale.

Claim Rejections - 35 USC § 103

12. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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13. Claims 3-15, and 17-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Balabanian in view of Sambar "*PowerTV Operating System*" Release 1.5, October 1998, pp.1-52.

14. As to claim 3, Balabanian does teach acquiring a service, but does not explicitly teach acquiring a service by tuning a specified virtual channel number or source ID using a specified service path.

Sambar teaches acquiring a service by tuning a specified virtual channel number or source ID using a specified service path (*page 47, lines 14-22*).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Sambar with Balabanian because Sambar's teachings would have provided the capability for allowing the service providers to provide the services to the appropriate user.

15. As to claim 4, Sambar teaches determining the status of a service (*page 49, lines 5-11*).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Sambar with Balabanian because Sambar's teachings would have provided the capability for monitoring the delivering of the services and ensuring the services are delivered to the user.

16. As to claim 5, Sambar teaches requesting status information regarding a currently-tuned primary service on a specified service path (*page 49, lines 8-26*).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Sambar with Balabanian because

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Sambar's teachings would have provided the capability for allowing the service providers to provide the right service to the user.

17. As to claim 6, Sambar teaches registering a client for unsolicited service status updates for a currently tuned primary service on a specified service path (*page 47, lines 14-22*).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Sambar with Balabanian because Sambar's teachings would have provided the capability for allowing the service providers to provide the right service to the user.

18. As to claim 7, Sambar teaches canceling a registration for service status updates that was previously set up (*page 47, lines 20-22*).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Sambar with Balabanian because Sambar's teachings would have provided the capability for allowing the service providers to provide the right service to the user.

19. As to claim 8, Sambar teaches obtaining a summary of current Virtual Channel Table information for all defined virtual channels (*page 48, lines 1- 6*).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Sambar with Balabanian because Sambar's teachings would have provided the capability for distributing the service information to the user.

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20. As to claim 9, Sambar teaches obtaining a summary of current Virtual Channel Table information and characteristics for all defined DOCSIS downstream channel (*page 48, lines 1-27*).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Sambar with Balabanian because Sambar's teachings would have provided the capability distributing the service information to the user.

21. As to claim 10, Sambar teaches adding a service component of a specified type to a primary service on a specified service path (*page 47, lines 9-13*).

22. As to claim 11, Sambar teaches deselecting a specified component from a primary service on a specified service path (*page 49, lines 8-21*).

23. As to claim 12, Sambar teaches selecting a service component that carries particular multicast datagrams (*page 507, lines 1-7*).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Sambar with Balabanian because Sambar's teachings would have provided the capability for allowing the service providers to provide the services to the appropriate user.

24. As to claim 13, Sambar teaches extracting datagram fragments from datagram sections being carried on one or more elementary PID stream components (*page 50, lines 17-29*).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Sambar with Balabanian because

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Sambar's teachings would have provided the capability for allowing the service providers to provide the services to the appropriate user.

25. As to claim 14, Sambar teaches deselecting a specified stream component that was previously selected (*page 49, lines 8-21*).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Sambar with Balabanian because Sambar's teachings would have provided the capability for controlling the service by the user.

26. As to claim 15, Sambar teaches requesting message from a text or data-service component that was previously selected (*page 46, lines 19-24*).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Sambar with Balabanian because Sambar's teachings would have provided the capability for facilitating the communications between the user terminal, the device drivers, and the OS software.

27. As to claim 17, Sambar teaches receiving data or text from a specified background service connection that was previously acquired (*page 48, lines 1-3*).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Sambar with Balabanian because Sambar's teachings would have provided the capability for facilitating the deliver of the requested services to the user.

28. As to claim 18, Sambar teaches obtaining at least one virtual channel number associated with a specified source identifier (*page 48, lines 1-6*).

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It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Sambar with Balabanian because Sambar's teachings would have provided the capability for identifying the services requested by the user.

29. As to claim 19, Sambar teaches obtaining a source identifier associated with a specified virtual channel number (*page 48, lines 13-18*).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Sambar with Balabanian because Sambar's teachings would have provided the capability for identifying the services requested by the user.

30. As to claim 20, Sambar teaches obtaining a list of pending changes to a Virtual Channel Table (*page 47, lines 14-28*).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Sambar with Balabanian because Sambar's teachings would have provided the capability for monitoring the requests for services by the user.

31. As to claim 21, Sambar teaches obtaining a Defined Channel Bit Map for a specified channel type that represents currently defined virtual channels/services (*page 48, lines 1-21*).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Sambar with Balabanian because Sambar's teachings would have provided the capability for identifying the services requested by the user.

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32. As to claim 22, Sambar teaches identifying a next audio and/or video component for a service (*page 48, lines 3-16*).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Sambar with Balabanian because Sambar's teachings would have provided the capability for identifying the services requested by the user and delivering the right services to the user.

33. As to claim 23, Sambar teaches obtaining a virtual channel number associated with a specified application identifier (*page 48, lines 1-6*).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Sambar with Balabanian because Sambar's teachings would have provided the capability for identifying the services requested by the user.

34. As to claim 24, Sambar teaches obtaining an application identifier associated with a specified Virtual Channel Number (*page 48, lines 13-18*).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Sambar with Balabanian because Sambar's teachings would have provided the capability for identifying the services requested by the user.

35. As to claim 25, Sambar teaches obtaining an application identifier associated with a specified source name string (*page 48, lines 22-27*).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Sambar with Balabanian because

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Sambar's teachings would have provided the capability for identifying the services requested by the user.

36. As to claim 26, Sambar teaches obtaining a source name string identifier associated with a specified application ID (*page 48, lines 25-27*).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Sambar with Balabanian because Sambar's teachings would have provided the capability for identifying the services requested by the user.

Response to Arguments

37. Applicant's arguments with respect to claims 1-26 and 88-89 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

38. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

39. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not


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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

40. Any inquiry or a general nature or relating to the status of this application should be directed to the TC 2100 Group receptionist: (571) 272-2100.
41. Any inquiry concerning this communication or earlier communications from the examiner should be directed to VAN H. NGUYEN whose telephone number is (571) 272-3765. The examiner can normally be reached on Monday-Thursday from 8:30AM - 6:00PM. The examiner can also be reached on alternative Friday.
42. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Meng-Ai An can be reached on (571) 272-3756.
43. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.
44. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:
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